



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

May 14, 2007

Leonard Leichnitz
Lumos Communities, LLC
30713 Riverside Drive, Suite 201
Lake Elsinore, CA 92530

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR TRACT MAP 34017, CITY OF LAKE ELSINORE (ACOE REFERENCE NO. SPL - 20061257 - RRS)

Dear Mr. Leichnitz :

On September 28, 2006, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by Vandermost Consulting Services, Inc., for residential Tract Map 34017 (formerly Tract Map 33370, a.k.a. "Waterbury") in the Lake Elsinore back basin in the City of Lake Elsinore. On March 13, 2007, we received the requested draft Supplemental Environmental Impact Report (SEIR). On April 13, 2007, we received a response to issues identified by Regional Board staff subsequent to review of the SEIR.

This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Construction of approximately 1,796 residential dwelling units, a 10-acre park, a 1.5-acre park, 186.3 acres of developed open space, and 22-acres of roadways on a 396.4-acre site. 186.6-acres of the developed open space will be excavated to an elevation of approximately 1,240-feet above mean sea level (MSL) to compensate for lost flood storage capacity for the Lake. The excavated material will be used to elevate the residential portions of the project to 1,275-feet above MSL. An existing motocross facility will be relocated to a 49-acre site at the southernmost corner of the project site within the developed open space. The project is part of the East Lake Specific Plan, which includes development of the back basin of Lake Elsinore. The project is located within an un-sectioned portion of Township 6 North, Range 4 West, of the U.S. Geological Survey *Lake Elsinore, California*, 7.5-minute topographic quadrangle map (33.633 degrees N/ -117.30 degrees W).

California Environmental Protection Agency



Recycled Paper

Receiving water: Two un-named ephemeral drainage channels tributary to Lake Elsinore.

Fill area: 0.08 acres of permanent impact to ephemeral drainages (1,850 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:
Onsite Water Quality Standards Mitigation Proposed:

- Nuisance flow and 'first-flush' discharges from the residential portions of the project site will be treated in an extended detention basin located at the north-central portion of the site, north of the proposed extension of Diamond Drive. The extended detention basin will be operated and maintained by the City of Lake Elsinore or a homeowner's association. The extended detention basin will discharge into an adjacent open space area – that includes the mitigation site – prior to flows entering into a 356-acre wetlands mitigation site to the northwest.
- Nuisance flow and 'first-flush' discharges from the developed open space areas, including the motocross facility, will be treated in bio-swales prior to entering into the extended detention basin.
- Prior to discharge, runoff from the motocross facility will be treated in a sedimentation basin to be maintained by the motocross operator.
- Additional site-specific best management practices (BMPs) will be specified in the final Water Quality Management Plan (WQMP) and in the site's Storm Water Pollution Prevention Plan(s) (SWPPP).
- A 15-acre area, downstream of the extended detention basin will be excavated to an elevation of 1,220- to 1,223-feet above MSL. Because the managed lake level is between 1,240 and 1,249-feet above MSL and the area will receive flow from the project site, sufficient hydrology is expected to support a riparian area created by the applicant. Accumulated water in the mitigation site will need to be pumped out.

Offsite Water Quality Standards Mitigation Proposed:

- No offsite water quality standards mitigation is proposed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be

California Environmental Protection Agency



Recycled Paper

implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of Lake Elsinore certified an Environmental Impact Report for the Eastlake Specific Plan in May of 1993. Subsequently, the City of Lake Elsinore certified an SEIR for an amendment (Amendment No. 8) to the East Lake Specific Plan on December 22, 2005 for the Waterbury Project. The Executive Officer has considered the City's EIR and SEIR in the issuance of this Certification.

This 401 Certification is contingent upon the execution of the following conditions:

1. This Certification is conditioned upon the construction of all proposed storm water treatment facilities as proposed. All structural storm water treatment facilities shall be constructed and operational prior to the occupancy of any on-site residential home.
2. Lumos Communities, LLC shall operate and maintain the extended detention basin and bio-swales until such time that the City of Lake Elsinore or a homeowner's association accepts this responsibility.
3. Regional Board staff and other authorized representatives shall be allowed:
 - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification;
 - b. Access to copy any records that are kept under the requirements of this Certification;
 - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
 - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification.
4. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any project SWPPP or WQMP.
5. Lumos Communities, LLC shall create 15-acres of riparian waters, including 5-years of follow-on maintenance and monitoring, as proposed. The creation effort shall be fully implemented according to a written Habitat Mitigation Monitoring Plan (HMMP), prepared according to U.S. Army Corps of Engineers' guidelines. The HMMP shall include measurable and quantifiable success criteria. Initial excavation for the creation effort shall occur concurrent with the proposed discharge of fill to waters of the U.S. A final HMMP shall be provided to Regional Board staff by November 15, 2007 and a copy shall be maintained on-site during construction activities for the residential homes.
6. Lumos Communities, LLC shall provide geographic information system shape files in a portable digital format to Regional Board staff not later than August 14, 2007. The



shape files shall include the project boundaries, polygons for the structural storm water treatment facilities, and the mitigation site boundaries. The shape file attributes shall include the Regional Board File Number (332006-65), the project name, and the discharger name. For information regarding the required projection and other technical data specifications, please contact Heather Boyd at (951) 320-2006.

7. This Certification is transferable only upon written notice to the Executive Officer. The notice shall include written acknowledgement of this Certification by the transferee's authorized representative.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any



May 14, 2007

technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Shannon Pankratz
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Jenny Chen
California Department of Fish and Game, Ontario Office – Jeff Brandt
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Tim Vendlinski
Vandermost Consulting, Inc. – Sherri Conley

APF:401/certifications/TM 34017 (Lumos) 332006-60

California Environmental Protection Agency



Recycled Paper